

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

1. R.S.A No. 4445 of 2011 (O&M)

M.D.U, RohtakAppellant

versus

Dr. Jitender Singh Laura ...Respondent

2. R.S.A No. 4628 of 2011 (O&M)

M.D.U, RohtakAppellant

versus

Dr. Vineeta Shukla ...Respondent

Date of decision : 18.03.2015

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Shireesh Gupta, Advocate
for the appellants

Mr. Davinder Singh, Advocate
for the respondents

RITU BAHRI , J.

This order of mine shall dispose of the above two appeals i.e R.S.A No. 4445 and 4628 of 2011 wherein challenge is to the judgment dated 26.05.2011 passed by learned District Judge, Rohtak whereby the suit of the plaintiffs-respondents (herein after to be referred as 'respondent') was decreed and the judgment of the trial

Court passed by learned Additional Civil Judge (Sr. Divn.) Rohtak was set aside.

In R.S.A no. 4445 of 2011, plaintiff-respondent Dr. Jitender Singh Laura was appointed as Lecturer on recommendation of selection committee against vacant post of Reader in the department of Bioscience till the regular selection of Reader. The approval was given by the Executive Council vide resolution dated 27.11.1991 and the plaintiff-respondent joined his services on 18.11.1991. The service agreement was executed on 20.12.1991. The existing post of Reader was downgraded temporarily by the defendants-appellants (for brevity 'the appellants), vide resolution dated 16.02.2001 and his services were regularized from the date of his joining i.e 18.11.1991, vide letter dated 17.04.2001 on approval by the Executive Council vide resolution dated 26.03.2001. After regularization, the respondent availed all the benefits like attending of refresher courses and availing of earned leaves etc. as regular teacher of the department. On 05.04.2005, the appellant issued letter No. ET-3/2005/1846, whereby earlier letter dated 17.04.2001 was suppressed and as per impugned letter, the respondent was regularized from 23.10.2003 against the budgeted post whereas earlier he

was regularized against the temporarily downgraded post of Reader as Lecturer and resolution dated 18.03.2005 was also passed by the appellant in this regard. Further, the appellant issued a letter on 10.05.2007 and promoted the respondent from the post of Lecturer to the post of Reader. He was also granted the senior scale of Rs.10000-325-15200 w.e.f 23.10.2003 but the services rendered by him were not counted by the appellant while promoting him. The respondent has prayed that letters dated 17.04.2001, 5.4.2005 and 10.05.2007 be declared as null and void and further prayed that the appellant be directed to provide all pecuniary pensionary and seniority benefits relating to his services by considering his service regular w.e.f 18.11.1991.

In R.S.A no. 4628 of 2011, plaintiff-respondent Dr. Vaneeta Shukla was appointed as Lecturer on recommendation of selection committee against vacant post of Reader in the department of Bioscience till the regular selection of Reader. The approval was given by the Executive Council and the plaintiff-respondent joined his services on 14.11.1991. The service agreement was executed on 27.11.1991. The existing post of Reader was downgraded temporarily by the defendants-appellants (for brevity 'the appellants), vide resolution dated 16.02.2001

and her services were regularized from the date of her joining i.e 14.11.1991, vide letter dated 09.05.2001 on approval by the Executive Council vide resolution dated 26.03.2001. After regularization, the respondent availed all the benefits like attending of refresher courses and availing of earned leaves etc. as regular teacher of the department. On 05.04.2005, the appellant issued letter No. ET-3/2005/1846, whereby earlier letter dated 09.05.2001 was suppressed and as per impugned letter, the respondent was regularized from 23.10.2003 against the budgeted post whereas earlier he was regularized against the temporarily downgraded post of Reader as Lecturer and resolution dated 18.03.2005 was also passed by the appellant in this regard. Further, the appellant issued a letter on 10.05.2007 and promoted the respondent from the post of Lecturer to the post of Reader. He was also granted the senior scale of Rs.10000-325-15200 w.e.f 23.10.2003 but the services rendered by her were not counted by the appellant while promoting her. The respondent has prayed that letters dated 09.05.2001, 5.4.2005 and 10.05.2007 be declared as null and void and further prayed that the appellant be directed to provide all pecuniary pensionary and seniority benefits relating to her services by considering her service regular

w.e.f 14.11.1991.

The suit of the respondents was dismissed by referring to Ex D1 i.e the approval of the Government, which was conveyed to the respondents whereby the Government has sanctioned 03 posts of lecturers in dept. of Biosciences w.e.f 23.10.2003 and it was held that the promotion to the post of Readers cannot be said to be illegal and the benefit of earlier service rendered by the respondents on the post which was not duly approved by the Government cannot be granted to the respondents towards pension and seniority benefits. Further it was held that for giving the benefit of seniority to the respondents w.e.f 14.11.1991(in respect of Dr. Vineeta Shukla) & 18.11.1991 (in respect of Dr. Jitender Singh Laura, it would amount to creation of new posts.

The respondents filed an appeal against the judgment of the trial Court, which was accepted and set aside the judgment of the trial Court and held that the respondents are entitled to the declaration sought to the effect that the letters dated 05.04.2005 and 10.05.2007 are liable to be declared null and void and not binding upon the respondents whereas the letters dated 17.04.2001 and 09.05.2001 were held to be legal and binding upon the respondents. The respondents were found entitled for the

benefit of past service rendered from 14.11.1991 in respect of Dr. Vaneet Shukla and 18.11.1991 in respect of Dr. Jatinder Singh Laura.

The Lower Appellate Court held that the selection of the respondents was made as per Rules. The Post of Reader was downgraded temporarily till the regular post of Lecturer is created and the respondents were appointed as Lecturer. No Reader was appointed during the period, the respondents remained as Lecturer. The respondents were working as Lecturer since the date of joining without any break and were availing all the benefits of increments and leave etc. As per UGC guidelines, the persons who were on ad hoc basis have been held to be entitled to the benefit of regular service for the purpose of seniority. So, the case of the respondents were found to be on better footings than the employees on ad hoc basis. Once the respondents were appointed as Lecturers by downgrading the post of Readers and no Readers were appointed during the period they remained as Lecturer on that post, it cannot be said that there was no post against which the respondents were appointed. The letter of the Government was never brought in to the picture till the appointments were made or till they were regularized.

After going through the judgments passed by both the Courts below, the facts which are not in dispute are that the respondents were appointed as Lecturers by downgrading the post of Readers. They were appointed by the Executive Council vide resolution dated 16.02.2001 and in pursuance of the Executive Resolution dated 26.03.2001, the Vice-Chancellor was pleased to regularize the services of the respondents as Lecturers. They had been working on that post from the date of joining and had availed all benefits like increments, leave etc. However, vide letter dated 05.04.2005, the respondents were intimated that the Executive Council in its meeting held on 18.03.2005 has resolved to approve the regularization/adjustment as Lecturers in the department of Bio-Sciences w.e.f 23.10.2003 against the vacant budgeted post of Lecturer with the stipulation that they would be entitled for senior scale/selection grade in terms of the UGC guidelines, which have been notified by the State Government vide notification dated 08.12.2000. However, they will not get any benefit of past service towards seniority and pension etc.

The Lower Appellate Court has rightly held that the respondents were appointed as Lecturer by downgrading

the Post of Readers and after a period of two years no regular selection was made to appoint Reader. Hence, for all intents and purposes, respondent i.e Dr. Vaneet Shukla and Dr. Jatinder Singh Laura were working rather on a lower post of Lecturer as the post of Reader was carrying higher scale.

The judgment passed by the Lower Appellate Court do not suffer from any misreading of facts. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeals are dismissed.

18.03.2015
G Arora

(RITU BAHRI)
JUDGE